

R E M A R K S

Claims 3 and 6-12 are now in this application, and are presented for the Examiner's consideration.

Request for initialed PTO-1449 Forms

An information disclosure statement was filed with the application, along with two Forms PTO-1449, and 16 references. Although the first page of the Office Action indicates that two Forms PTO-1449 were sent with the Office Action, the undersigned did not receive the same.

It is therefore requested that the Examiner send the two initialed Forms PTO-1449 with the next paper.

Request for Form PTO-892

Although the first page of the Office Action indicates that Form PTO-892 was sent with the Office Action, the undersigned did not receive the same.

It is therefore requested that the Examiner send Form PTO-892 with the next paper.

Rejection of claims under 35 U.S.C. §112

Claims 16-19 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Since these claims have been canceled, it is respectfully submitted that this rejection is rendered moot, and thereby overcome.

Allowable Claims

Claims 7 and 8 were indicated as being allowable if written in independent form. In this regard, claims 7 and 8 have been written in independent form.

It is therefore submitted that these claims are now in condition for allowance.

Prior Art Rejections

Claims 1-6, 9-16, 19 and 20 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,700,857 to Kittscher et al.

Claims 1, 2, 13-16, 19 and 20 have been canceled. Therefore, this rejection will be discussed in relation to claims 3, 6 and 9-12. A clean copy of the claims now in the application is enclosed as Appendix A for the Examiner's convenience.

Kittscher et al is directed to a device in which the wax plug is formed in the threaded closure cap or cover 4. With Kittscher et al, after the bottle is filled with liquid through the open neck, closure cap or cover 4 is threaded thereon. In order to protect the wax plug 7 from being punctured from the outside, an extremely thin sealing film 13 is placed on top of cover 4 in covering relation to wax plug 7. For example, sealing film 13 can be a layer of aluminum which is only approximately 40 micrometers in thickness coated with a polypropylene lacquer.

However, because of the thin nature of sealing film 13, the sealing film is not a very good seal, and a sharp object could

still easily puncture through sealing film 13 into wax plug 7, or a force could still be applied to sealing film 13 to push wax plug 7 into the interior of the bottle. Also, because of the shape of cover 4, that is, with an annular side wall containing threads 8 and the inner peripheral surface 11 for holding wax plug 7, formation of wax plug 7 therein can be difficult and/or cumbersome.

The present invention overcomes these problems by providing a retaining plug 26 which is fit and held directly within the annular neck 20 of the bottle, and the retaining plug 26 includes its own bore 35 in which the wax plug 28 is held. Thus, it is only necessary to form retaining plug 26 as an annular member which fits into the neck 20 of the bottle. Then, a separate closure cap 24 can be threaded thereover.

Thus, closure cap 24, in addition to being separate from retaining plug 26, also functions to absolutely protect the wax plug 28 from being punctured or forced into the main body of the bottle. This is very different from the thin sealing film 13 of Kittscher et al.

Also, formation of the wax plug 28 in retaining plug 26 is relatively simple, since retaining plug 26 takes a very simple annular shape.

In order to make these distinctions clear, claim 3 has been amended to include the limitations of claims 4 and 5, as well as adding further limitations. Thus, claim 3 recites the following

limitations which are nowhere disclosed or even remotely suggested by Kittscher et al:

a) Claim 3 recites a retaining plug which holds the wax plug in a bore therein, with the retaining plug held in the opening in the neck and which engages the neck. Even if inner peripheral surface 11 of Kittscher et al could be considered a retaining plug, it certainly does not engage the neck of the bottle.

b) Claim 3 recites a closure cap removably engaged on said neck in covering relation to the opening and said bore. The closure cap 4 of Kittscher et al, although removably engaged on the neck of the bottle by threads 8, is not in covering relation to the bore in the retaining plug. If inner peripheral surface 11 is considered a retaining plug, the closure cap 4 is open at the upper end. In order to cover the same, a separate sealing film 13 must be applied on the cover 4.

c) Claim 3 recites that the closure cap is separate from the retaining plug. This is clearly shown in Fig. 1 of the present application. With Kittscher et al, however, inner peripheral surface 11 against which the plug 7 is held is part of closure cap 7.

Further, claim 10 recites that the retaining plug includes an outwardly extending flange 50 which rests on an upper edge of the bottle in surrounding relation to the neck opening when the retaining plug is positioned in neck opening. There is no such outwardly extending flange in Kittscher et al, and in fact, there

would be no reason to provide such an outwardly extending flange, since inner peripheral surface 11 is integrally formed with the closure cap 4.

Accordingly, it is respectfully submitted that the rejection of claims 1-6, 9-16, 19 and 20 has been overcome.

Claims 1, 2, 13 and 15 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,022,148 to Chapman.

However, all of these claims have been canceled.

Accordingly, it is submitted that this rejection is rendered moot, and thereby overcome.

Claims 13 and 20 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,407,432 to Shichman.

However, both of these claims have been canceled.

Accordingly, it is submitted that this rejection is rendered moot, and thereby overcome.

Claim 13 was rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,431,303 to Miskell.

However, this claim has been canceled.

Accordingly, it is submitted that this rejection is rendered moot, and thereby overcome.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the

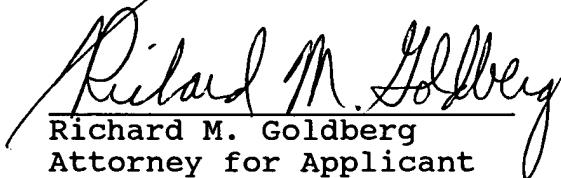
undersigned at the telephone number given below for prompt action.

In the event that this Paper is late filed, and the necessary petition for extension of time is not filed concurrently herewith, please consider this as a Petition for the requisite extension of time, and to the extent not tendered by check attached hereto, authorization to charge the extension fee, or any other fee required in connection with this Paper, to Account No. 07-1524.

The Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1524.

In view of the foregoing amendments and remarks, it is respectfully submitted that Claims 3, 6 and 9-12 are all allowable, and an early and favorable notice to that effect is solicited.

Respectfully submitted,



A handwritten signature in black ink, appearing to read "Richard M. Goldberg".

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